

## VESTING TENTATIVE MAP

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|---------------------------------|---|
| <b>FILE NO.</b>                 | <b>T20-026</b>  |
| <b>LOCATION OF PROPERTY</b>     | North side of West Julian Street between Notre Dame Avenue and Terraine Street (255 W Julian Street)  |
| <b>ZONING DISTRICT</b>          | DC Downtown Primary Commercial  |
| <b>GENERAL PLAN DESIGNATION</b> | Downtown  |
| <b>PURPOSE OF MAP</b>           | Vesting Tentative Map to merge seven lots into one lot on an approximately 1.79-gross acre site in relationship to Special Use Permit File No. SP21-037 |
| <b>TITLE OF MAP</b>             | Vesting Tentative Parcel Map of 255 West Julian Street  |
| <b>DRAWN BY</b>                 | Ryan M. Amaya, LS<br>Kier & Wright Civil Engineers and Surveyors, Inc.<br>3350 Scott Boulevard, Building 22<br>Santa Clara, CA 95054                    |
| <b>DATE OF MAP</b>              | October 2021  |
| <b>ENVIRONMENTAL STATUS</b>     | Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018              |
| <b>OWNER ADDRESS</b>            | Charles W Davidson Trustee<br>Davidson Living Trust<br>255 West Julian Street, Suite 200<br>San Jose, California 95110                                  |
| <b>APPLICANT ADDRESS</b>        | Project West Julian LLC<br>2107 Elliott Avenue, Suite 303<br>Seattle, Washington, 98121   |

### FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as following for this proposed project:

1. **Project Description.** A Vesting Tentative Map to merge seven lots into one lot on an approximately 1.79-gross acre site in relationship to Special Use Permit File No. SP21-037.
2. **Site Description and Surrounding Uses.** The subject site is currently developed with a six-story office building (the "Davidson Building") and a vacant surface parking lot. The site is

bounded by Pellier Park to the east, a high-rise multifamily residential building to the southeast, a vacant commercial structure to the south, Highway 87 to the west, vacant land to the northwest, and a mixed-use commercial and multifamily residential building to the north.

3. **General Plan Conformance.** The subject site is designated Downtown on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan, which has FAR standards of up to 30.0 (3 to 30 stories). The Downtown designation is the primary designation for new high-intensity office, retail, service, residential, and entertainment uses in the Downtown area. All development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership.

*Analysis: The project is for two commercial office buildings with ground floor retail located within the Downtown area. The proposed 517,850 total square feet of gross floor area equates to 6.64 FAR. This is consistent with the General Plan designation.*

4. **Zoning Regulations.** The project site is located within the DC Downtown Primary Commercial Zoning District. Section 20.90.200 of the City of San José Municipal Code states that parking facilities which accommodate the required number of spaces in an alternative parking design require a Special Use Permit. The zoning district provides for a range of uses including residential, commercial, educational, entertainment, and medical uses.

Height and Setbacks: Per Section 20.70.200 of the Zoning Code, properties located in the DC zoning district shall only be subject to the height limitations necessary for the safe operation of San José International Airport. Additionally, per Section 20.70.210 of the Zoning Code, the Downtown Primary Commercial District is not subject to setback regulations.

*Analysis: The height and setbacks are consistent with the zoning district with a Permit Condition that the project receives a “Determination of No Hazard” from the FAA prior to Building Permit issuance, per Condition #28 of the Special Use Permit.*

5. **City Council Policy Consistency.** Under City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. The on-site sign has been posted at the site since July 7, 2021 to inform the neighborhood of the project. A community meeting was held to discuss the project on June 21, 2021 via Zoom webinar. Approximately five members of the public were in attendance for the meeting. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff has been available to respond to questions from the public.
6. **Environmental Review.** The environmental impacts of this project were addressed in an Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018. CEQA Guidelines, Section 15164, states that, “A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines, Section 15162 calling for preparation of a subsequent EIR have occurred. Pursuant to Section 15164, and as part of the entitlement processing for this project, an Addendum to the Downtown Strategy 2040 Final EIR was prepared. The Addendum is available on the City’s website at: [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs).

*Analysis: The 255 West Julian Street Project Addendum analyzed the project which consists of a Special Use Permit and Tentative Map to demolish the existing surface parking lot and construct an approximately 688,780-gross square foot, 14-story building containing approximately 452,000 square feet of office space and approximately 13,000 square feet of ground-floor retail, and approximately 34,687 square feet of outdoor patios and balconies, and converting an existing six-story office building into a mixed-use commercial building consisting of approximately 56,000 square feet of office space and 6,000 square feet of retail space, and approximately 17,262 square feet of new outdoor patios and balconies and a ground-floor plaza located along West Julian Street, between the existing and proposed buildings; and a Tentative Map to combine seven lots into one lot to accommodate the project on an approximately 1.70-gross acre site. The type and intensity of development proposed is consistent with the anticipated development in the Downtown Strategy 2040 FEIR.*

*No new or more significant environmental impacts beyond those identified in the Downtown Strategy EIR have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the EIR been identified. A Mitigation, Monitoring and Reporting Program (MMRP) includes mitigations to bring impacts to Air Quality, Biological Resources, Hazards and Hazardous Materials, and Noise to a less than significant level. A Condition of Approval implementing the MMRP is part of this permit as are standard environmental permit conditions to lessen the environmental effects of the project. The project will not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIR. For these reasons, a supplemental or subsequent EIR is not required and an Addendum to the Downtown Strategy 2040 FEIR is the appropriate environmental clearance for the project*

## **FINDINGS**

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. **Subdivision Map Act Findings.** In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a tentative map, if it makes any of the following findings:
  - a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
  - b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
  - c. That the site is not physically suitable for the type of development.
  - d. That the site is not physically suitable for the proposed density of development.
  - e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
  - f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
  - g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Analysis: Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The consolidation of the seven subject parcels into one parcel on an approximately 1.79-gross acre site is consistent with the General Plan goals, policies and land use designation, as analyzed above. The subject site is physically suitable to accommodate commercial office and retail use because all project components are designed within the project site. Furthermore, the project site does not contain any sensitive habitats or wildlife, and the subdivision will not conflict with any easements.*

2. **Subdivision Ordinance Findings.** In accordance with San José Municipal Code (SJMC) Section 19.12.130, the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220.

Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

*Analysis: Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision.*

In accordance with the findings set forth above, a Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This Director expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
  - a. Acceptance of the Vesting Tentative Map by the Subdivider; and
  - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map.
3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
  - a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the

approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

- b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
  - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
  - ii. The condition or denial is required, in order to comply with state or federal law.
- c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
  - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
  - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
  - iii. A Subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i. expires. If the extension is denied, the Subdivider may appeal that denial to the city council within fifteen (15) days.
  - iv. If the Subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
- 4. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Special Use Permit File No. SP21-037 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Special Use Permit for such lands automatically expires or for any reason ceases to be operative.
- 5. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.



6. **Improvement Contract.** In the event the Subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code and shall provide the bonds and insurance mentioned therein.
7. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
8. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
9. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
10. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
11. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development.
12. **Standard Environmental Permit Conditions**
  - a. **Air Quality.** The project applicant shall implement the following measures during all phases of construction to control dust and exhaust at the project site.
    - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
    - ii. Cover trucks transporting soil, sand, or other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
    - iii. Remove visible mud or dirt track-out onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
    - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
    - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

- vii. Replant vegetation in disturbed areas as quickly as possible.
  - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
  - ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
  - x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications.
  - xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.
- b. **Transportation.** The following Transportation Demand Management (TDM) measures will be implemented by the building owner and coordinated with future tenants occupying the project development. Implementation, monitoring and reporting shall be per the of the Transportation Demand Management (TDM) Plan prepared by Hexagon Transportation Consultants dated August 2021:
- i. Carpool/Vanpool Measures
  - ii. Telecommuting and Flexible Work Schedule
  - iii. On-Site TDM Coordinator
  - iv. On-Site Support Services
  - v. On-Site Showers and Lockers
  - vi. Guaranteed Ride Home
- c. **Biological Resources. Tree Replacement.** The removed trees on-site would be replaced according to tree replacement ratios required by the City, as provided in in the Tree Removal Table below:

| Tree Replacement Ratios             |                            |            |         |                                       |
|-------------------------------------|----------------------------|------------|---------|---------------------------------------|
| Circumference of Tree to be Removed | Type of Tree to be Removed |            |         | Minimum Size of Each Replacement Tree |
|                                     | Native                     | Non-Native | Orchard |                                       |
| 38 inches or more                   | 5:1                        | 4:1        | 3:1     | 15-gallon                             |
| 19 up to 38 inches                  | 3:1                        | 2:1        | none    | 15-gallon                             |
| Less than 19 inches                 | 1:1                        | 1:1        | none    | 15-gallon                             |

| Tree Replacement Ratios  |                            |            |         |                                       |
|--|----------------------------|------------|---------|---------------------------------------|
| Circumference of Tree to be Removed  | Type of Tree to be Removed |            |         | Minimum Size of Each Replacement Tree |
|  | Native                     | Non-Native | Orchard |                                       |
| x:x = tree replacement to tree loss ratio  |                            |            |         |                                       |
| Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. |                            |            |         |                                       |
| A 38-inch tree equals 12.1 inches in diameter.   |                            |            |         |                                       |
| A 24-inch box tree = two 15-gallon trees   |                            |            |         |                                       |

- i. Based on the eight ordinance-size trees and 25 non-ordinance trees to be removed, the project is required to plant a total of 70 replacement trees at 15-gallon size or 35 replacement trees at 24-inch box size. Pursuant to the project landscaping plan, the development would plant 61 trees at 48" box size. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- ii. The species and exact number of replacement trees to be planted on a given project site would be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement. The planting and maintenance of replacement and street trees will be made conditions of development approval.
- d. **Santa Clara Valley Habitat Plan (SCVHP).** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of PBCE or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The SCVHP and supporting materials can be viewed at [www.scv-habitatplan.org](http://www.scv-habitatplan.org).
- e. **Cultural Resources**
  - i. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area, as described in Public Resources Code Section 21080.3, shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any



- significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- ii. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
- 1) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
  - 2) The MLD identified fails to make a recommendation; or
  - 3) The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.
- iii. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.
- f. **Geology and Soils.** To minimize potential direct or indirect damage from seismic shaking on the project site, the project would include the following measures:
- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part

- of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites will be weatherized.
  - iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
  - iv. Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.
  - v. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.
- g. **Hazards and Hazardous Materials: Asbestos and Lead-Based Paint.** The project shall incorporate the following measure to ensure that asbestos containing materials and lead-based paint are not released during demolition:
- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
  - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
  - iii. All potentially friable ACMs shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
  - iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
  - v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- h. **Hydrology and Water Quality.** Construction-related water quality.
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust, as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall be required to maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas would be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction

**13. Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José- Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

**14. Sewage Fees:** In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.

**15. Conformance to Environmental Conditions of Approval.** This Project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP), and Standard Environmental Permit Conditions approved for this development under the associated Special Use Permit (SP21-037).

16. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the following Public Works conditions as described in the Special Use Permit (SP21-037).
17. **Revocation.** This Tentative Map is subject to revocation for violation of any of its provisions or conditions.

**APPROVED** and issued on this 17<sup>th</sup> day of November 2021.

Christopher Burton, Director  
Planning, Building and Code Enforcement

Deputy